TEXAS DEPARTMENT OF INSURANCE
Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
CUMBERLAND SURGICAL HOSPITAL

Respondent Name
TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number
M4-18-0239-01

Carrier's Austin Representative
Box Number 54

MFDR Date Received
October 4, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This claim was submitted by paper by provider on 02/09/2017 via DHL, transferred from DHL on 02/13/2017, then delivered by USPS via certified mail and confirmed received on 02/28/2017 at the payer. Considering this, provider submitted the claim via paper 5 days prior to the deadline."

Amount in Dispute: $55,357.95

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor argues its DHL and USPS documentation show that it timely submitted the bill. From this the requestor ends the argument stating it was not its fault Texas Mutual received the bill later than 95 days from the date of service . . . the bill was nine days past the 95 day timeline."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Dispute Amount	Amount Due
November 10, 2016 to November 11, 2016	Inpatient Hospital Services	$55,357.95	$49,432.63

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
3. 28 Texas Administrative Code §102.4 sets out general rules regarding communications.
4. 28 Texas Administrative Code §134.404 sets out the acute care hospital fee guideline for inpatient services.

5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - 29 – THE TIME LIMIT FOR FILING HAS EXPIRED
   - 731 – PER 133.20 PROVIDER SHALL NOT SUBMIT A MEDICAL BILL LATER THAN THE 95TH DAY AFTER THE DATE THE SERVICE, FOR SERVICES ON OR AFTER 9/1/05
   - W3 – IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
   - 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
   - 350 – IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
   - 891 – NO ADDITIONAL PAYMENT AFTER RECONSIDERATION

Issues

1. Did the health care provider submit the bill before the 95th day following the date of service?
2. Is the requestor entitled to additional payment?

Findings

1. The insurance carrier denied disputed services with adjustment codes:
   - 29 – "THE TIME LIMIT FOR FILING HAS EXPIRED."
   - 731 – "PER 133.20 PROVIDER SHALL NOT SUBMIT A MEDICAL BILL LATER THAN THE 95TH DAY AFTER THE DATE THE SERVICE, FOR SERVICES ON OR AFTER 9/1/05."

   28 Texas Administrative Code §133.20(b) requires that "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided."

   The submitted documentation supports that the health care provider sent the medical bill from Bangalore, India on February 9, 2017 by DHL, an international shipping and packaging service. The package traveled to Austin, Texas where the shipping company transferred the package to the United States Postal Service for the last leg of the journey so that the package could be delivered by certified mail, return receipt requested. The package was received and signed for by the insurance carrier on February28, 2017.

   The health care provider asserts the bill was submitted timely, while the insurance carrier argues that the bill was received after the 95th day following the dates of service, and was therefore untimely.

   28 Texas Administrative Code §102.4(h) states that, unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

   (1) the date received, if sent by fax, personal delivery or electronic transmission or,
   (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.

   The division notes that the dates of service in dispute are November 10, 2016 to November 11, 2016 and that the 95th day following each of these dates was Monday, February 13, 2017 and Tuesday, February 14, 2017, respectively.

   Rule §133.20 requires that the health care provider not submit the bill later than the 95th day. Review of the submitted information finds that the provider did not submit the bill after the 95th day. The documentation supports that the health care provider submitted the bill on February 9, 2017. This date is before the 95th day. Accordingly, the division finds the provider has met the requirements of Rule §133.20.

   Rule §102.4 sets out the division's general rules for non-division communication. Subsection 102.4(h) provides rules for determining when a communication is "deemed to have been sent" — not *received*. In this case, the great weight of evidence indicates that the medical bill was *sent* on February 9, 2017, therefore the division finds the provider has also met the requirements of Rule §102.4.

Accordingly, the division concludes the bill was timely submitted and the provider has not forfeited the right to payment. The insurance carrier's denial reasons are not supported. The services will therefore be reviewed for payment according to applicable division rules and fee guidelines.

2. This dispute regards Inpatient hospital facility services with payment subject to 28 Texas Administrative Code §134.404(f), which requires that the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount (including outlier payments) applying the effective Medicare Inpatient Prospective Payment System (IPPS) formulas and factors, published annually in the Federal Register, with modifications as set forth in the rule. Medicare IPPS formulas and factors are available from http://www.cms.gov.

   Rules §134.404(f)(1)(A) and (B) require that the Medicare amount be multiplied by 143 percent unless a facility requests separate reimbursement in accordance with subsection (g).

   Rule §134.404(g)(1) requires that a facility billing separately for implantables shall include with the billing a certification that the amount billed represents the actual costs (net amount, exclusive of rebates and discounts) for the implantable.

   Review of the submitted documentation finds that, while separate reimbursement for implantables was requested, the provider did not include the certification required by Rule §134.404(g)(1) and therefore has not requested separate reimbursement *in accordance with* subsection (g). Consequently, the Medicare facility specific amount shall be multiplied by 143 percent to determine the MAR.

   Review of the submitted bill and supporting documentation finds that the DRG code assigned to the disputed services is 455. The services were provided at Cumberland Surgical Hospital in San Antonio. Based on the DRG code, the service location, and bill-specific information, the division determines that the Medicare facility specific amount is $34,568.27. This amount multiplied by 143% results in a MAR of $49,432.63.

   The total recommended payment for the services in dispute is $49,432.63. The insurance carrier has paid $0.00. The amount due to the requestor is thus $49,432.63.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $49,432.63.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor $49,432.63, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

	Grayson Richardson	December 8, 2017
Signature	Medical Fee Dispute Resolution Officer	Date
	Martha Luévano	December 8, 2017
Signature	Director of Medical Fee Dispute Resolution	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (form DWC045M) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.